

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

96 BROADWAY LLC, Et Al.,

Plaintiffs,

vs.

THE CITY OF NEWBURGH,

Defendants.

Case No.:07CV6689 (SCR)

NOTICE OF MOTION

**TO: THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF
RECORD**

PLEASE TAKE NOTICE, that DOUGLAS R. DOLLINGER, pro se and attorney for Plaintiffs hereby files this Application for an order Extending Time for him to file Plaintiffs' Motion Opposition papers to December 28, 2007. By this Application Counsel seeks an extension of time from December 11, 2007 to include December 31, 2007, for the filing and service of said pleading.

This Application, is brought pursuant to Local Rules, and is supported by good cause.

NOTICE OF APPLICATION

Notice of this Application was provided by mail to Counsel for Defendants Tarshis, Catania, Liberth, Mahon & Miligram, PLLC, Attorneys for CITY OF NEWBURGH, One Corwin Court P.O. Box 1479 Newburgh, New York 12550, Tel. No. 845.565.1100; Monte J. Rosenstein, Esq. , 259 Crystal Run Rd., Middletown,

10940, Tel. No. 845.692 .8006, Bergstein & Ullrich, LL, 15 Railroad Avenue Chester, New York 10918 (Affidavit of Service Edward McCarthy).

GOOD CAUSE

This Application is supported by good cause and so as to avoid prejudice to the prosecution of this action. The complaint involves complex set of circumstances alleging multiple violations of Plaintiffs' Constitutional and Civil Rights and other related state claims.

The application is necessary due to an order of condemnation for the building in which Counsel's office was located. The building is located in the City of Newburgh. In the beginning of November 2007, Counsel was forced to vacate the building because the landlord had refused to repair the building since August 2007, after the order of condemnation was issued by the CITY of NEWBURGH. In November 2007, the office was relocated to Goshen, New York.

Unfortunately, complications have arisen with the completion of the construction of the office and a delay for at least two weeks is anticipated. The result of the delay means limited or no internet access for on line research, printing and other necessary services so as to properly oppose Defendant GABOR's Motion.

The application is supported by this Notice, Memorandum of Points and Authorities, Declaration of DOUGLAS R. DOLLINGER, and the [Proposed] Order.

Dated: Goshen, New York
December 9, 2007

By:



DOUGLAS R. DOLLINGER, Pro se.
Attorney for Plaintiffs
40 Matthews Street
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

96 BROADWAY LLC, Et Al.,)	Case No.:07CV6689 (SCR)
)	
Plaintiffs,)	
vs.)	
)	
THE CITY OF NEWBURGH,)	
)	
Defendants.)	

MEMORANDUM OF POINTS AND AUTHORITIES

**Good Cause Exists For An Extension Of Time To Serve
A Responsive Pleading To The Motion To Dismiss**

The underlying facts of this case arise out of a complex scheme involving activities of organized criminal conduct intending to violate the Plaintiffs' Constitutional and Civil Rights and other related state claims so as to deny Plaintiffs their right to inhabit a building they own in the City of Newburgh.

Pending before the Court are three motions for dismissal of Complaint. A Motion filed by the CITY Defendant has been replied to with Opposition Papers. Additionally, the Motion filed by the Defendant WILLIAM CUMMINGS has been replied to with Opposition Papers. There remains outstanding the Motion of Defendant GABOR.

Counsel for Plaintiffs is requesting this honorable Court to enlarge Plaintiffs' time to file opposition to Defendant GABOR's motion to December 31 2007, for the reason that the building in which Counsel's office was located has been condemned by the City of Newburgh's Fire and Building Departments.

It was originally believed that the repairs would take a week or two. Unfortunately, this was not the case, and although Counsel was allowed to enter the building, it was often without electric. Plaintiffs counsel moved as much of the office equipment as could be moved to his home so as to work between a new office to be constructed and his home. The delays have caused a back log in Counsel's work-productivity and additional time to respond and oppose the Motion is needed.

The matter is presently scheduled for submission of Plaintiff Opposition to December 11, 2007.

Plaintiffs therefore request that this Court enter an order providing that Plaintiffs be granted until December 31, 2007, to file and serve their Opposition papers. Such an extension of time will not prejudice Defendants.

THE LOCAL RULES OF THIS COURT

Local Rules permits the parties to stipulate to an extension of time for a response to matters such as those before the Court. Although Defendant GABOR's Counsel was not a party to the briefing schedule entered into in this matter his Motion impacts on the issued related to the other motions pending in this matter such that it appears that such a stipulation would need to be approved by the court based on the prior briefing schedule entered into and agreed to among counsel and approved by the Court.

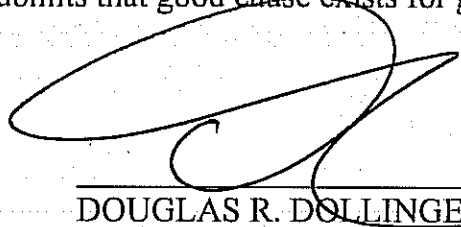
The within application seeks nothing more than what the Local Rules allow the parties to do by agreement, which is to extend the period for a response to the motion.

CONCLUSION

Based on the above, Plaintiff respectfully submits that good cause exists for granting this Application.

Dated: December 9, 2007

By:



DOUGLAS R. DOLLINGER, Pro se.

Attorney for Plaintiffs

40 Matthews Street

Village of Goshen

Goshen, New York 10924

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DECLARATION OF DOUGLAS R. DOLLINGER

By my Declaration I am requesting this honorable Court enlarge Plaintiffs' time to oppose the Motion of MICHAEL GABOR to December 31, 2007, for the reason that I was a tenant in a building where I maintained my office which had in August 2007 been condemned by the City of Newburgh's Fire and Building Departments.

It was originally believed that the repairs would take a week or two. Unfortunately, the landlord refused to complete the repairs and I was forced to leave the building.

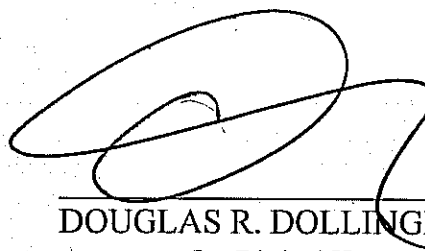
In the beginning of November 2007, I relocated to Goshen, New York. However, the offices are not completed, I have moved as much of my office equipment to my home as I can and work between my office and my home.

The delays have caused a back log in my work-productivity and I need the additional time to oppose Defendant GABOR's Motion.

The matter is presently scheduled for submission of Plaintiff's opposition for December 11, 2007.

Plaintiffs therefore request that this Court enter an order providing that Plaintiffs be granted until December 31, 2007, to file and serve their Opposition papers. Such an extension of time will not prejudice Defendants.

I, DOUGLAS R. DOLLINGER pro-se, and Plaintiffs' Counsel declare under the penalty of perjury under the laws of the State of New York that the foregoing is true and correct and that this declaration was executed on the 19th day of December 2007, in Goshen, Orange County, New York.



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[PROPOSED] ORDER EXTENDING
TIME FOR PLAINTIFF TO FILE AND
SERVE THEIR OPPOSITION PLEADINGS

GOOD CAUSE having been shown, it is ordered that the Application of DOUGLAS R. DOLLINGER Pro Se, Attorney for Plaintiffs for an extension of time to file and serve the Plaintiffs' Opposition Papers to Defendant GABOR's Motion for Dismissal to be served and filed on or before December 31, 2007, is hereby GRANTED.

IT IS SO ORDERED.

DATED _____

HONORABLE STEPHEN C. ROBINSON
JUDGE UNITED STATES DISTRICT COURT

PROOF OF SERVICE

STATE OF NEW YORK)

COUNTY OF NEW YORK)

I maintain my offices in the City of Newburgh, County of Orange, State of New York. I am over the age of 18 and not a party to these proceedings. My business address is 40 Matthews Street, Village of Goshen, New York 10924.

On December 10, 2007, I served the following documents: PLAINTIFF'S Memorandum Of Law And Dollinger's Affidavit And Exhibits In Opposition To Defendants' FRCP 12(b) (1) and 12(b)(6) Motions and a Motion To Enlarge The Time To Respond To Defendant Gabor's Motion To Dismiss.

***** PLEASE SEE ATTACHED SERVICE LIST*****

 VIA OVERNIGHT MAIL:

By delivering such documents to an overnight mail service or an authorized courier in a sealed envelope or package designated by the express courier addressed to the person(s) on whom it is to be served.

 X **VIA U.S. MAIL:**

By depositing a sealed envelope containing the above-cited document with the U.S. Postal Service on December 10, 2007, with postage thereon fully paid at the local post office in Newburgh, New York.

 VIA PERSONAL DELIVERY:

By personally delivering such sealed envelope by hand to the offices of the addressee pursuant to the applicable law

 VIA FACSIMILE:

By facsimile transmission where a report was generated indicating that the transmission was completed to the number indicated on the report without error.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct and I declare that I did so at the direction of the member of the bar of this Court at whose direction the service was made.

Executed this 10th day of December 2007, City of Newburgh, County of Orange, State of New York.


EDWARD MCCARTHY

SERVICE LIST

96 Broadway etal., Case No.: 07cv 7419(SCR) (MLF)

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